GOVERNMENT OF INDIA
ENVIRONMENT, FORESTS AND CLIMATE CHANGE
LOK SABHA

UNSTARRED QUESTION NO:1212
ANSWERED ON:28.07.2015
Views of NGT on Forest Clearance
Hari Shri G.

Will the Minister of ENVIRONMENT, FORESTS AND CLIMATE CHANGE be pleased to state:

(a) whether it is true that the National Green Tribunal (NGT) has taken a serious view on the Government"s decision to allow developers of linear projects such as roads and transmission line to fell trees in forest areas once the Government has given an in principle approval and before the final forest clearance is awarded;
(b) if so, the details thereof;
(c) whether the Government has submitted its view before the National Green Tribunal; and
(d) if so, the details thereof?

Answer

MINISTER OF STATE (INDEPENDENT CHARGE) FOR ENVIRONMENT, FOREST AND CLIMATE CHANGE

(SHRI PRAKASH JAVADEKAR)

(a) to (d) Milind Pariwakam & Anr. filed an Original Application before the National Green Tribunal (NGT) to challenge the communications dated 8th August, 2014 and 15th January, 2015 issued by the Ministry of Environment, Forest and Climate Change (MoEFCC) to the effect that in case of projects involving linear diversion of forest land such as laying of new roads, widening of existing highways, transmission lines, water supply lines, optic fiber cabling, railway lines etc., in-principle approval under the Forest (Conservation) Act, 1980 (FC Act) issued by the Central Government may be deemed as the working permission for tree cutting and commencement of work, if the required funds for compensatory afforestation, net present value (NPV), wildlife conservation plan, plantation of dwarf species of medicinal plants, and all such other compensatory levies specified in the in-principle approval are realised from the user agency and where necessary, for compensatory afforestation, transfer and mutation of non-forest/revenue forest land in favour of State Forest Department is affected and an Order for tree cutting and commencement of work of linear project(s) in forest land by an Officer not below the rank of a Divisional Forest Officer having jurisdiction over the forest land proposed to be diverted, duly authorised by the State Government in this regard, is issued.
The NGT in their order dated 20th February, 2015 stayed the said communications dated 8th August, 2014 and 15th January, 2015.
The Central Government submitted following views before the National Green Tribunal in the said mater:
(i) For the purpose of Section 2A of the FC Act and Section 16 (e) of the National Green Tribunal Act, 2010, an Order for tree cutting and commencement of work of linear project(s) in forest land, to be passed by the State Government or a Senior Officer not below the Rank of a Divisional Forest Officer, having jurisdiction over the forest land proposed to be diverted, duly authorized in this behalf by the State Government, as is provided in the guidelines issued vide letter No. 11-306/2014-FC dated 15th January 2015, shall be an order under Section 2 of the FC Act. Till such order is passed no felling of trees or project related activity shall be undertaken in the forest land diverted for linear projects.
(ii) An appeal as per provisions of section 2 (A) of Forest (Conservation) Act, 1980 and/or under Section 16 (e) of the National Green Tribunal Act, 2010 can be filed against any such order for tree cutting and commencement of work of linear project(s) in forest land.
(iii) In the event of filing of such appeal, it would be open for the person aggrieved, to assail the order/Clearance granted by the Central Government under Section 2 of the Forest (Conservation) Act, 1980 which forms and integral and sole basis of the order passed by the State Government or a Senior Officer authorised by the State Government as aforementioned, for tree felling and commencement of linear project in forest land.
(iv) The State Government and the Project proponent shall take further action as has been stipulated by the Hon'ble National Green Tribunal in their Judgment dated 7th November 2012 in Appeal No. 7/2012 to accord publicity and to ensure availability in public domain of stage-I approval accorded by the Central Government and the order passed by the State Government or a Senior Officer authorised by the State Government as afore-mentioned. The State Government and the Project Proponent shall also ensure strict compliance of other direction(s) contained in the said judgment.
The Hon'ble NGT in their order dated 13th March 2015 disposed of the said O.A. with certain directions. A copy of the Hon'ble NGT's Order dated 13th march 2015 is annexed.
In compliance of the directions issued by the Hon'ble NGT in the said O.A. and in supersession of the MoEFCC's said letters dated 8th August 2014 and 15th January 2015, the MoEFCC vide letter dated 7th May 2015 issued fresh guidelines.
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